



ROCKEFELLER CENTER
1270 AVENUE OF THE AMERICAS, 24TH FLOOR
NEW YORK, NY 10020
T 212.307.5500 F 212.307.5598 www.Venable.com

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T 212.370.6289
F 212.307.5598
MBallard@Venable.com

FILED VIA ECF

Honorable Paul G. Gardephe
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square New York, NY 10007

Re: *Everytown for Gun Safety Action Fund, Inc. v. Defcad, Inc. et al.*, 21-cv-08704

Dear Judge Gardephe:

We write on behalf of Plaintiff Everytown for Gun Safety Action Fund, Inc. ("Everytown") to respectfully request that the court schedule a hearing on Everytown's application for preliminary injunctive relief at Your Honor's earliest convenience. Absent preliminary injunctive relief, Everytown continues to be irreparably harmed by Defendants' conduct in this case as Defendants' infringing products (bearing identical versions of Everytown's federally registered trademarks) are available to the public and have been downloaded repeatedly during the pendency of Everytown's request for injunctive relief.

The U.S. Court of Appeals for the Second Circuit has denied Defendants' request for a stay pertaining to Your Honor's May 23, 2022 order setting a preliminary injunction hearing and has denied the request for stay of Your Honor's May 25, 2022 order adjourning the preliminary injunction hearing. *See* Civ. No. 22-1183, Dkt. 55. The remaining clarification sought by the Second Circuit pertaining to the scope of the order to disclose in no way impacts the scheduling of a hearing because this additional information is not required to proceed with adjudicating Everytown's request for injunctive relief. The Second Circuit has held the Court is free to adjudicate the question of personal jurisdiction without deferring to the anonymous declarations. *See* Civ. No. 22-1183, Dkt. 55, at *16. Further, the issue over the scope of the disclosure is now moot because Defendants have already disclosed their identities to Everytown on June 15th in connection with their Motion to Dismiss pursuant to the parties' Confidentiality Agreement entered by the Court, which permits disclosure to the Court. Everytown is prepared to proceed immediately with its request for preliminary injunctive relief.

Respectfully submitted,

/s/Marcella Ballard

Cc: counsel of record via ECF